

# REPOSSESSOR BOND RULES

## **FILING WITH THE ATTORNEY GENERAL**

1. A reposessor wishing to file a surety bond in accordance with the provisions of § 4-9-629, CRS (hereinafter “applicant”) shall submit the following items to the Colorado Attorney General, Consumer Protection Unit, 1525 Sherman Street, 7th Floor, Denver, CO 80203:
  - a. Completed original Application for Repossessor Bond. Such application, on a form approved by the Colorado Attorney General, shall request general information including, but not limited to, trade names, business address, individual owners, registered agents, surety company, etc.
  - b. Original fully executed surety bond in the amount of \$50,000.00 (Fifty Thousand Dollars) drawn in favor of the Colorado Attorney General. The surety bond shall be on a form approved by the Colorado Attorney General.
  - c. Non-refundable filing fee in an amount approved by the Colorado Attorney General, payable to the Colorado Attorney General.
2. The Colorado Attorney General shall promptly notify applicant that its reposessor application materials have been received. Such notification shall designate whether the materials (application, bond, filing fee) comply with the applicable rules and statutory requirements.
3. A reposessor bond shall be deemed filed with the Colorado Attorney General pursuant to § 4-9-629, CRS when the Colorado Attorney General receives application materials which comply with rules 1 a-c above.
4. If information contained in a filed application for reposessor bond form becomes outdated or inaccurate, the bonded reposessor shall, within thirty (30) days, submit the new information to the Colorado Attorney General on a revised application. Said revised application shall be on a form approved by the Colorado Attorney General.

## **CONTINUATION OF REPOSSESSOR BOND**

5. A reposessor who has filed a surety bond with the Colorado Attorney General and wishes such bond to remain effective must annually notify the Colorado Attorney General that the bond remains in full force and effect.. Such notification shall be on a form approved by the Colorado Attorney General, shall be accompanied by a filing fee in an amount approved by the Colorado Attorney General and shall be received by the Colorado Attorney General annually, on or before the anniversary of the original surety bond filing date. Provided further that:
  - a) Bonds that are issued due solely to the change in name of a reposessor may be continued under this provision so long as the new bond is reissued under the reposessor's new name and the bond has the same terms as the prior bond. The reposessor must provide notification to the Attorney General within 30 (thirty) days of the issuance of the new bond. If there has been a change in ownership or corporate structure of the reposessor, a new bond must be filed in accordance with the provisions of paragraph 6 below.
  - b) If the bond sought to be continued has expired, it may be continued under the provisions of this paragraph so long as:
    - (i) The bond has been reinstated;

- (ii) The bond has not lapsed more than 60 (sixty) days; and
    - (iii) The terms of reinstatement include coverage for the period of time during which the bond was lapsed.
  - c) All other new or reinstated bonds must be processed as new bonds under the provisions of paragraph 6 below.
6. If a new surety bond is executed on behalf of a bonded reposessor to continue or replace an existing bond, the reposessor shall file the new surety bond with the Colorado Attorney General in accordance with rules 1 a-c above.

### **CLAIMS AGAINST BONDED REPOSSESSORS**

7. Any person claiming damages or loss caused by the conduct of a bonded reposessor acting in the course of recovering or taking possession of collateral may individually commence appropriate legal action against the bonded reposessor and its surety. For the purpose of these rules, a bonded reposessor is a person or business entity that has complied with the provisions of these rules.
8. In the event a person obtains a final judgment from a court of competent jurisdiction or through binding arbitration against a bonded reposessor for damages referred to in rule 7 above, and the bonded reposessor fails to satisfy the judgment within thirty (30) days of when the judgment becomes final, the Colorado Attorney General will assist said person pursuant to rules 9 and 10 below for the purpose of seeking full satisfaction of judgment. Said person shall first notify the Colorado Attorney General of the judgment and failure to satisfy the judgment, and submit to the Colorado Attorney General a copy of the certified judgment.
9. The aforementioned involvement by the Colorado Attorney General shall include:
- a. Providing written notice to the surety that a judgment against a bonded reposessor has been obtained; and
  - b. Presentation of a copy of the judgment; and
  - c. Providing a written demand for satisfaction of the judgment by the surety.
10. If the judgment is not satisfied by the surety within a specified period not to exceed thirty (30) days, the Colorado Attorney General may commence a lawsuit against the surety to recover the amount of the judgment, interest, costs and attorney fees.

### **TERMINATION OF SURETY'S OBLIGATION**

11. The surety may terminate its obligation under the bond only by giving the bonded reposessor and the Colorado Attorney General written notice of such termination, in accordance with the requirements provided by § 10-4-109.7, C.R.S., addressed to the bonded reposessor and the Colorado Attorney General, Consumer Protection Unit, 1525 Sherman Street, 7th Floor, Denver, CO 80203.
12. Surety's obligation will not terminate with respect to liability that arises before the effective date of termination.
13. After giving such notice of termination, if the surety wishes to continue to serve as a surety for the reposessor, a new bond, rider or certification of reinstatement must be duly executed and filed with the Colorado Attorney General in accordance with these rules.

#### **ATTORNEY GENERAL FILES**

14. The Colorado Attorney General shall maintain official files for all bonded reposseors in Colorado. Said files shall be open for inspection by the public during regular business hours and shall be available upon written request and payment of photocopying fees determined by the Colorado Attorney General.

## **PROPOSED STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE**

There are two issues addressed in the proposed amendments to the rule:

First, the proposed amendments reflect the change brought about by § 4-9-629(b), C.R.S. in the amount of the bond from \$25,000 to \$50,000.

Second, the changes to paragraph 5 further define the circumstances under which a reposessor bond filing may be renewed or reinstated. These new standards allow a bond to be renewed when minor changes have been made, such as when a reposessor changes only its name or seeks reinstatement of a bond for which the filing has lapsed for no more than sixty days.

During the course of administering this program, the Attorney General's Office has noticed that these two circumstances have raised questions as to when a bond may be renewed or whether a new bond must be filed. Allowing a bond to be renewed when there is only a change of name by the holder or when the bond filing has lapsed for less than 60 days (and there is coverage during the lapsed period of time) is commensurate with the intent of the statute and provides ease of administration for the reposessors.

The authority for this rule is found in § 4-9-629(b), CRS and 6-1-108(1), CRS.